

Application Number 10/039,668
Reply to final Office Action of February 9, 2005

REMARKS

This paper is responsive to the final Office Action dated February 9, 2005. The claims have not been amended at this time. Claims 1-74 are pending.

In the Office Action, the Examiner rejected claim(s) 1, 2, 7, 8, 19, 51, 52, 55, 56, 57, 59 and 60 under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. No. 6,750,992 to Holub, (hereinafter "Holub"). The Examiner also rejected claims 3-50, 53, 54, 58, and 61-74 under 35 U.S.C. §103(a) as being unpatentable over Holub in view of U.S. Pat. No. 5,739,809 to McLaughlin et al. (hereinafter "McLaughlin").

Applicant respectfully traverses the rejections. Applicant respectfully submits that all pending independent claims, with the exception of claim 44, recite at least two features that are not disclosed or suggested in any of the applied references, either alone or in combination. First, none of the applied references discloses or suggests **the specification of viewing conditions for an image or an image folder**. To clarify, this means that the specified viewing conditions are particular to an image or image folder. In contrast, the prior art of record discloses calibration of a rendering device (e.g., a video display or hard copy printer), wherein the calibration is particular to the rendering device, but not particular to individual images or image folders. Some claimed embodiments of Applicant's invention further specify that the viewing conditions require calibration of rendering devices in order to view a particular image. However, this is very different than conventional calibration. In short, all pending claims require the specification of image-specific or image folder-specific viewing conditions, which is lacking from each of the applied references.

Second, because the prior art of record fails to even disclose the specification of viewing conditions for an images or image folders, the prior art also fails to teach the **display of such images subject to satisfaction of the viewing conditions**. The display of images in the applied prior art is not subject to anything, much less subject to the satisfaction of a viewing condition for an image. In contrast to Applicant's invention, if the systems disclosed in the prior art are turned on and functioning properly, the given image will be displayed as normal, regardless of the viewing conditions. Therefore, the display of an image in the prior art systems do not appear to be subject to the satisfaction of viewing conditions. Moreover, the ability to specify viewing conditions such that images are viewed subject to such viewing conditions is highly desirable in

BEST AVAILABLE COPY

Application Number 10/039,668
Reply to final Office Action of February 9, 2005

soft proofing where image viewing under non-controlled viewing conditions can undermine the ability to proof images.

Applicant addresses these different points in greater detail below with respect to the specific claims at issue.

Claims 1-10, 55, 56, 19, 20, 59 and 60

Applicant's independent claim 1 recites a soft proofing system comprising a computer that specifies one or more viewing conditions for an image. Claim 1 also recites a viewing station that receives the image and the viewing conditions from the computer and displays the image subject to the viewing conditions for the image being satisfied at the viewing station.

In rejecting claim 1, the Examiner cited Holub, and specifically identified FIG. 3A and column 12, lines 10-19, of Holub as disclosing the features of Applicant's claim 1. The portion of Holub cited by the Examiner describes a rendering node comprising a programmable computer, a network communication device, a color measuring instrument and a rendering device. It is not clear how this passage is even remotely related to elements of Applicant's current invention, other than Applicant's claim 1 recites a computer and a viewing station which might be viewed as similar to the programmable computer and the rendering device of Holub. However, nothing in Holub discloses or suggest image specific viewing conditions or the display of images subject to satisfaction of the viewing conditions at a viewing station.

Holub discloses a process for calibration or error correction at individual nodes in system 100 (FIG. 3A, Holub). To summarize the disclosure of Holub, an individual node is calibrated with color measuring instruments (CMI), which compare a "virtual proofing" to the output of a rendering device at the node to determine error at that node. The determined error may then be used as an error-correction input (see FIG. 18A and column 40, line 59 through column 41, line 16). Stated in the most general terms, the disclosure of Holub finds and fixes rendering errors after-the-fact. In contrast, in the context of soft proofing systems, Applicant's invention may prevent such errors in the first place insofar as Applicant's invention allows for specification of viewing conditions for an image and display of the image subject to the viewing conditions. Holub lacks any suggestion of these features of Applicant's claims.

Application Number 10/039,668
Reply to final Office Action of February 9, 2005

In the previous Office Action dated May 28, 2004, the Examiner cited U.S. Pat. No. 5,739,809 to McLaughlin et al. as teaching the elements of Applicant's claim 1. However, the Examiner recognized that McLaughlin fails to teach all the features of Applicant's invention because the Examiner withdrew the rejection of May 28, 2004 that relied upon McLaughlin.

In the current Office Action, the Examiner cited Holub instead of McLaughlin in rejecting Applicant's claim 1 under 35 U.S.C. §102. However, the disclosure of Holub fails to contain the subject matter of Applicant's claim 1 in the same way that McLaughlin fails to contain the subject matter of Applicant's claim 1. Specifically, neither Holub nor McLaughlin disclose or suggest viewing conditions for an image or the display of such images subject to satisfaction of the viewing conditions. If the Examiner continues to contend that the prior art discloses viewing conditions for an image, Applicant respectfully requests that the Examiner point out what feature within the prior art constitutes a viewing condition for an image. This feature is simply lacking from Holub.

Because McLaughlin and the other prior art of record fail to disclose a viewing condition for an image, they also fail to disclose the display of such images subject to satisfaction of the viewing conditions. For example, dependent claim 2 recites the viewing conditions as comprising calibration information. In contrast to the disclosure of Holub, claim 2 in the context of claim 1 requires that the calibration information is for the image. Holub discloses a calibration adjustment for a device in which the adjustment is calculated by comparing an image rendered by the device to a "virtual proof" (see Holub, FIGS. 18A-B and column 41, lines 11-16). However, Holub lacks any suggestion of calibration information that is specifically specified for an image.

Many of the dependent claims are similar to claim 2 in that they contain limitations that further define the viewing conditions for an image. As an example, claim 7 requires that the viewing conditions include information specifying one or more sharpening techniques to be applied at the viewing station. Applicant does not assert that sharpening techniques do not exist in the prior art. Instead, Applicant asserts that the display of an image at a viewing station, subject to the satisfaction of the application of one or more specified sharpening techniques, is not disclosed prior art.

Application Number 10/039,668
Reply to final Office Action of February 9, 2005

Independent claim 19 recites a method comprising receiving input at a computer specifying viewing conditions for an image at a viewing station, and sending the image and the viewing conditions from the computer to the viewing station, wherein the viewing station displays the image subject to the viewing conditions being satisfied at the viewing station. This claim was also rejected as being anticipated by Holub. However, claim 19, like claim 1, recites features that are not disclosed or suggested by Holub. In particular, as with claim 1, the prior art fails to disclose or suggests viewing conditions that are specified for an image as required by claim 19. Moreover, none of the applied references disclose or suggests the display of images subject to anything, much less the display of an image subject to viewing conditions being satisfied at the viewing station, as required by independent claims 1 and 19. In short, the prior art of record does not contain every feature recited in either of independent claims 1 and 19.

Claims 11-18, 57, 58, 21-26, 61, 62, 27-31, 63, 64 and 38-40

The Examiner rejected independent claim 11 only under 35 U.S.C. §103, but rejected dependent claim 57 under 35 U.S.C. §102. Because claim 57 contains each of the limitations of claim 11, Applicant is confused as to the Examiner's position with respect to both claim 11 and claim 57. In the event the Examiner does not find that claims 11 and 57 both include allowable subject matter, Applicant respectfully requests clarification of the Examiner's position with respect to claims 11 and 57.

Claim 11 recites a method comprising receiving image data and viewing conditions from a computer, and restricting display of an image according to the image data at a viewing station when the viewing conditions are not satisfied at the viewing station.

Independent claim 21 recites a computer readable medium carrying program code that when executed at a viewing station receives an image and viewing conditions for the image from a computer and restricts display of the image at the viewing station when the viewing conditions are not satisfied at the viewing station.

Claim 27 recites a computer readable medium carrying program code that when executed receives input at a computer specifying viewing conditions for an image and sends the image and the viewing conditions from the computer to the viewing station, wherein the viewing station restricts display of the image unless the viewing conditions are satisfied at the viewing station.

Application Number 10/039,668
Reply to final Office Action of February 9, 2005

Independent claim 38 recites a method comprising determining an amount of time that a display device at a viewing station has been turned on, and restricting viewing of an image received from a computer with one or more viewing conditions when the display device has not been turned on for an acceptable amount of time as defined by the viewing conditions.

With respect to independent claims 11, 21, 27 and 38, each of these claims refer to viewing conditions associated with an image. As discussed previously, the prior art fails to disclose such a feature. Moreover, independent claims 11, 21, 27 and 38 contain additional features which are not contained or suggested by the prior art.

For example, independent claims 11, 21, 27 and 38 each require that the display of an image at a viewing station be restricted when viewing conditions are not satisfied. The Examiner asserted that such a feature was implied in McLaughlin, column 6, lines 35-48. However, that passage in McLaughlin merely discloses configuring a display when it is used for the first time. Configuring the display for the first time, as performed by McLaughlin, is not described as an image specific viewing condition that must be satisfied in order to view the image. Instead, the display configuration in McLaughlin appears to be simply part of the initial set-up of the system – akin to taking a new computer out of the box, making necessary cable connections and turning it on for the first time. Furthermore, during the process of configuring the display device in McLaughlin, column 6, lines 35-48, no image is received by a computer. McLaughlin, column 6, lines 35-48 fails to even disclose an image, much less receiving an image or restricting display of the image, and does not add anything to the disclosure of Holub that would have led a person of ordinary skill in the art to modify Holub to restrict the display of an image if a viewing condition for the image is not satisfied at the viewing station. In short, any combination of the features of Holub and McLaughlin does not produce Applicant's invention as recited by claims 11, 21, 27 and 38 insofar as neither reference disclose or suggest restricting the display of an image if a viewing condition for the image is not satisfied at the viewing station.

Claims 32-37, 65 and 66

Independent claim 32 recites a computer readable medium storing an image file that includes image data and viewing conditions for the image file, wherein access to the image data at a viewing station is restricted by the image file when the viewing conditions have not been

Application Number 10/039,668
Reply to final Office Action of February 9, 2005

satisfied at the viewing station. The Examiner rejected independent claim 32 "essentially on the grounds presented in the rejection of claims 11, 21 and 27." (Office Action, page 8). Yet, these claims recite different features insofar as the features of independent claim 32 are different than the features of independent claims 11, 21 and 27. The Examiner's statement that claim 32 is rejected essentially on the grounds presented in the rejection of claims 11, 21 and 27 is inconsistent and requires further clarification for Applicant to properly respond. The point may be moot; however, as claim 32 is in condition for allowance for the reasons identified above.

Claim 32 requires that access to the image data of the image file at a viewing station is restricted by the image file when the viewing conditions have not been satisfied at the viewing station. This feature is not present in the prior art. The Examiner cited Holub, column 9, lines 41-44 as disclosing the features in claim 32. This portion of Holub only describes a "file structure . . . which specifically, addresses accurate color sensing and rendition in a networked environment." Applicant is again confused as to how the Examiner thinks this passage of Holub at column 9, lines 41-44 relates to the subject matter of claim 32. The only similarity appears to be that this passage demonstrates the Holub system makes use of image files. However, there is no mention in Holub of a viewing condition for an image file as recited in claim 32, no mention of restricting access to an image file as recited in claim 32, and no mention of the image file restricting access to the file when viewing conditions have not been satisfied as recited in claim 32. For each of these three reasons, the Examiner has failed to establish a prima facie case of obviousness.

Claims 41, 42, 43 and 44

Claim 41 recites a method comprising determining an amount of time that a display device has been turned on and restricting a calibration procedure for the display device when the display device has not been turned on for an acceptable amount of time such that the calibration procedure can only be performed on the display device once the display device has been turned on for the acceptable amount of time.

Application Number 10/039,668
Reply to final Office Action of February 9, 2005

Independent claim 43 recites a computer readable medium carrying program code that when executed determines an amount of time that a display device at a viewing station has been turned on and restricts viewing of an image received from a computer with one or more viewing conditions when the display device at a viewing station has not been turned on for an acceptable amount of time as defined by the viewing conditions.

Claim 44 recites a computer readable medium carrying program code that when executed determines an amount of time that a display device has been turned on and restricts a calibration procedure for the display device when the display device has not been turned on for an acceptable amount of time such that the calibration procedure can only be performed on the display device once the display device has been turned on for the acceptable amount of time.

Each of independent claims 41, 43 and 44 require determining the amount of time a display has been turned on and restricting either a calibration procedure (claim 41) or viewing of an image (claims 43 and 44) if the display has not been turned on for an acceptable amount of time. None of the cited references teach any of these features.

In rejecting claim 41 under 35 U.S.C. §103, the Examiner cited Holub in view of McLaughlin, and specifically identified McLaughlin column 8, lines 26-30 and column 6, lines 35-41 as disclosing the features of Applicant's claim 41. McLaughlin column 8, lines 26-30 reads, "automatically disables the mechanical front panel controls if the polling software finds that they have inadvertently become active. . ." I.e., prevent a user from adjusting the controls from set values. In contrast to the features of claim 42, McLaughlin fails to relate such a restriction to the amount of time a display device has been turned on.

McLaughlin column 6, lines 35-48 reads:

In typical embodiments of the inventive software, each time the software is used for the first time with a new display 16, the software automatically prompts the user to perform software configuration by manipulating mouse 18 or keyboard 10 to specify the type of display 16. (i.e., the hardware employed to implement display device 16). Typically, the configuration operation is performed by manipulating mouse 18 or keyboard 10 in response to dialog boxes, menus, and/or other prompts displayed on in control area 30 of the main window on display 16. The purpose of configuration is to set parameters (e.g., the manufacturer and model of the display device, an identification of the port to which the display is connected, etc.) to be used in display control and calibration routines to be performed later.

Application Number 10/039,668
Reply to final Office Action of February 9, 2005

This portion of McLaughlin only describes the initial set-up of the McLaughlin system. It is completely unrelated to restricting viewing of an image when the display device has not been turned on for the acceptable amount of time, as recited by claim 42. In short, neither passage of McLaughlin cited by the Examiner in rejecting claim 42 discloses or suggests anything that relates to the amount of time a display has been active, much less measuring such a time or restricting calibration procedure until the display device has been turned on for the acceptable amount of time.

The Examiner rejected claims 43 and 44 on the grounds presented in the rejection of claims 21, 27 and 6. In the rejection of claim 6, the Examiner cited McLaughlin column 6, lines 35-48 (quoted above) and FIG. 2. The initial set-up described in McLaughlin column 6, lines 35-48 is different from measuring the amount of time a display has been turned on for numerous reasons. First, no measurement of time is being taken by the McLaughlin system. Second, the cited disclosure only refers to the set-up process of McLaughlin system. A set-up process is not a feature of the McLaughlin system, but a common aspect of many computerized systems.

In the McLaughlin system, one of ordinary skill in the art would understand that display 16 (FIG. 2) may be turned off after the described initial set-up (e.g., to save power), while the rest of the system remains on. One of ordinary skill in the art would expect that once display 16 (FIG. 2) was turned back on, the McLaughlin system would immediately allow viewing of images. There is no evidence that the McLaughlin system does not function in this expected manner. In contrast, in Applicant's invention, as recited in claims 43 and 44, the amount of time that a display device has been turned on operates as a viewing condition, wherein display of an image is restricted when the display device has not been turned on for an acceptable amount of time.

The Examiner's assumption that the McLaughlin system display devices require an initial warm-up period, wherein an image is restricted during the warm-up period is not based upon substantial evidence. The conclusion of obviousness, as stated in the Examiner's rejection of claim 6, relies on features only contained within Applicants' own disclosure, rather than the prior art. Unless the Examiner can establish an evidentiary record based on concrete prior art references that establish that it would have been obvious to a person with ordinary skill in the art to incorporate the time a display has been active, measuring such a time or restricting a

Application Number 10/039,668
Reply to final Office Action of February 9, 2005

calibration procedure or viewing of an image until the display has been turned on for the acceptable amount of time, each of claims 41-44 should be allowed.

Claims 45-50, 67 and 68

The Examiner also rejected independent claim 45 on the grounds presented in claim 6. The basis for the Examiner's rejection for claim 45 is unclear as claims 6 and 45 contain different limitations. Claim 45 recites a method comprising receiving an image and viewing conditions at a viewing station from a computer, and restricting an ability of a user to proof the image on a display device at the viewing station when viewing conditions have not been satisfied at the viewing station. Applicant submits that claim 45 should be allowed for the same reasons as claim 11 and claim 41, addressed above. Applicant notes, however, that restriction of the ability to proof an image as recited in claim 45 may be broader than restriction of the display of an image as recited in claim 11. For example, restriction of the ability to proof an image could comprise restricting viewing of the image, as recited in claim 46, or restricting an ability to annotate the image as recited in claim 47. In any case, none of these features are disclosed or suggested in Holub, McLaughlin or any of the other applied references. Furthermore, the Examiner appears to have not even addressed the limitations of dependent claim 47 relating to the restriction of the ability to annotate an image.

Claims 51, 52, 69 and 70

Claim 51 recites a method comprising receiving an image and viewing conditions for the image at a viewing station from a computer, and displaying the image on a display device at the viewing station with conspicuous marking indicating that the image is not verified when the viewing conditions have not been satisfied at the viewing station. Applicant submits that claim 51 should be allowed for the same reasons as claim 1, addressed above.

The Examiner rejected independent claim 51 under 35 U.S.C. §102, citing Holub, column 47, line 23. The cited disclosure, however, merely describes a process that allows a user to edit an on-screen image. In contrast to the features recited by claim 51, Holub does not teach displaying an image with a conspicuous marking an image if a viewing condition has not been satisfied. Applicant is confused as to the Examiner's reluctance to even address this feature of

Application Number 10/039,668
Reply to final Office Action of February 9, 2005

Applicant's claims. Neither Holub nor any of the other applied references disclose or suggests displaying an image with a conspicuous marking an image if a viewing condition has not been satisfied, and the Examiner has identified nothing that would suggest otherwise.

Claims 53, 71, 72, 54, 73 and 74

Claim 53 recites a computer readable medium storing a folder of images and meta data file associated with the folder, wherein the meta data file includes viewing conditions for all images in the folder, wherein an ability to display the images on a display device at a viewing station is restricted when the viewing conditions are not satisfied at the viewing station.

Claim 54 recites a soft proofing system comprising a computer that specifies one or more viewing conditions of a set of images image in a folder by setting the viewing conditions in a meta data file associated with the folder and sends the folder and the viewing conditions, and a viewing station that receives the folder and the viewing conditions and displays one or more of the images in the folder subject to the viewing conditions being satisfied at the viewing station.

Applicant submits that claims 53 and 54 should be allowed for the same reasons as claim 1, addressed above. The Examiner rejected independent claims 53 and 54 on the grounds of rejection provided in the rejection of claim 6 and, in addition, cited Holub, column 25, lines 36-45. However, the cited disclosure of Holub discusses a method of correction of a rendering error, as discussed above. The method described in Holub does not restrict the ability to display the images on a display device at a viewing station if the viewing conditions are not satisfied at the viewing station as required by Applicant's claim 53.

Furthermore, Holub fails to teach a computer that specifies one or more viewing conditions of a set of images in a folder as required by claim 54. Holub also lacks any teaching wherein the display of one or more of the images is subject to viewing conditions being satisfied, another limitation of claim 54. The display of images in Holub is not subject to satisfaction of a viewing condition or subject to anything else.

In view of the foregoing comments, Applicant respectfully submits that all pending claims are in condition for allowance. Favorable remarks to such effect are courteously solicited.

Application Number 10/039,668
Reply to final Office Action of February 9, 2005

CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Applicant does not acquiesce with any of the Examiner's current rejections or characterizations of the prior art, and reserves the right to further address such rejections and/or characterizations. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

April 8, 2005
SHUMAKER & SIEFFERT, P.A.
8425 Seasons Parkway, Suite 105
St. Paul, Minnesota 55125
Telephone: 651.735.1100
Facsimile: 651.735.1102

By:

Kelly P. Fitzgerald
Name: Kelly Patrick Fitzgerald
Reg. No.: 46,326

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ BLACK BORDERS
- ☐ IMAGE CUT OFF AT TOP, BOTTOM OR SIDES
- ☐ FADED TEXT OR DRAWING
- ☐ BLURRED OR ILLEGIBLE TEXT OR DRAWING
- ☐ SKEWED/SLANTED IMAGES
- ☐ COLOR OR BLACK AND WHITE PHOTOGRAPHS
- ☐ GRAY SCALE DOCUMENTS
- ☒ LINES OR MARKS ON ORIGINAL DOCUMENT
- ☐ REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY
- ☐ OTHER: _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.